

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALEXIA JO-LYNN SMITH,
JAYDIN LEE BEAMAN, and KEEGAN SCOTT
BEAMAN, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TYLEE JO SMITH,

Respondent,

and

DUSTIN S. BEAMAN,

Respondent-Appellant.

UNPUBLISHED

October 13, 2009

No. 290963

Jackson Circuit Court

Family Division

LC No. 08-000541-NA

Before: Talbot, P.J., and Wilder and M. J. Kelly, JJ.

PER CURIAM.

Respondent, Dustin Beaman, appeals as of right from the trial court's order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) [conditions leading to adjudication continue to exist], (g) [failure to provide proper care or custody], and (j) [reasonable likelihood of harm to child if returned to parent]. We affirm.

Although respondent argues that the trial court erred in finding that any statutory ground for termination was proven by clear and convincing evidence, on appeal he fails to challenge the trial court's decision with respect to § 19b(3)(j). Termination of parental rights need only be supported by a single statutory ground. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Because respondent does not contest the trial court's findings with respect to § 19b(3)(j), he would not be entitled to appellate relief even if this Court were to fully credit his arguments with respect to §§ 19b(3)(c)(i) and (g). However, we find that the trial court did not clearly err in finding that all three statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Newman*, 189 Mich App 61, 65; 472 NW2d 38 (1991).

Contrary to respondent's assertion, the conditions that led to the adjudication were not based solely on respondent's former relationship with the children's mother, Tylee Smith. Rather, respondent's history of drug abuse was a significant factor that led to the adjudication. We also disagree with respondent's argument that his substance abuse problem did not support termination of his parental rights because he was in treatment at the time of the hearing. Respondent waited more than a year before entering into a treatment program. Respondent failed to participate in services during the intervening period and his previous involvement in treatment was unsuccessful. In addition, respondent failed to seek out or participate in available relapse prevention services, and his apparent motivation for entering into a program was to avoid incarceration and not a desire to obtain treatment. Given these circumstances, the trial court did not clearly err in finding that the conditions that led to the adjudication continued to exist and it was unlikely that they would be rectified within a reasonable time. Consequently, the trial court's termination of respondent's parental rights in accordance with § 19b(3)(c)(i) was not clearly erroneous.

Termination was also appropriate pursuant to § 19b(3)(g). We find no merit in respondent's argument that he was not offered appropriate services to address his substance abuse problem. The record indicates that respondent was referred for a substance abuse assessment to evaluate appropriate treatment options, but he refused to attend because he believed it was unnecessary. Although respondent completed a psychological evaluation, which substantiated his need for substance abuse treatment, he did not participate in any of the other services offered or meet with the caseworker so that appropriate treatment options could be arranged. He also refused to participate in the court's Family Recovery program. In sum, the record adequately demonstrates that although appropriate services were made available to respondent, he was unwilling to participate in the proffered services.

Further, the trial court's finding that the children were traumatized while in respondent's custody was not based on unsupported supposition and speculation. The court's finding that the children were traumatized is supported by the testimony of the children's therapist based on her opinions, observations and conversations with the children while in therapy. The children reported being exposed to violent and sexually explicit materials, and demonstrated highly aggressive behaviors during play and therapy. We also disagree with respondent's argument that the trial court improperly relied on testimony by the children's therapist that, because of the trauma experienced by the children, it would require at least a year to repair the bond between respondent and the children. Respondent is correct that the one-year timeframe applied primarily to one daughter, and that the evidence indicated that the damage to respondent's bond with his son could probably be repaired in less time. Nonetheless, the trial court determined that it was unlikely that the children's damaged relationship with respondent could successfully be repaired.

Respondent also contends that because he was enrolled in drug treatment when the termination hearing was conducted, he should have been afforded additional time to demonstrate his ability to overcome his addiction and provide proper care and custody for the children. Contrary to this assertion, the record clearly indicates that respondent had ample time and opportunity to demonstrate his parental fitness. Respondent's prior attempt at treatment was not successful. He failed to take advantage of relapse prevention services and refused to participate in a variety of services offered during the pendency of this case. Respondent also delayed in excess of a year before enrolling in the most recent treatment program. These facts, coupled

with respondent's need for continuing outpatient treatment and the high probability for relapse, demonstrate that the trial court did not clearly err in finding that it was highly unlikely that respondent would be able to provide proper care and custody within a reasonable period of time, considering the children's ages. Thus, termination was appropriate pursuant to § 19b(3)(g).

Finally, considering the trauma that the children previously experienced while in respondent's custody, in conjunction with his failure to successfully address the conditions that led to the children's exposure to such conditions, the trial court's determination that a reasonable likelihood existed that the children would be harmed if returned to respondent's home was not clearly erroneous. As such, termination was also appropriate in accordance with § 19b(3)(j).

Affirmed.

/s/ Michael J. Talbot
/s/ Kurtis T. Wilder
/s/ Michael J. Kelly